

SENATE BILL REPORT

SB 5342

As of February 5, 2013

Title: An act relating to a sales and use tax exemption for restaurants in respect to certain items that impart flavor to food during the cooking process.

Brief Description: Concerning a sales and use tax exemption for restaurants in respect to certain items that impart flavor to food during the cooking process.

Sponsors: Senators Dammeier, Murray, Mullet, Harper, Parlette, Schlicher, Tom, Sheldon and Kohl-Welles.

Brief History:

Committee Activity: Ways & Means: 2/04/13.

SENATE COMMITTEE ON WAYS & MEANS

Staff: Juliana Roe (786-7438)

Background: Retail sales and use taxes are imposed by the state, most cities, and all counties. Retail sales taxes are imposed on retail sales of most articles of tangible personal property, digital products, and some services. A retail sale is a sale to the final consumer or end user of the property, digital product, or service. If retail sales taxes were not collected when the property, digital products, or services were acquired by the user, then use taxes apply to the value of most tangible personal property, digital products, and some services when used in this state. The state sales and use tax rate is 6.5 percent. Local tax rates vary from 0.5 percent to 3.0 percent, depending on the location.

The sales and use tax does not apply to sales of food and food ingredients that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. This does not include alcohol, tobacco, prepared food, soft drinks, or dietary supplements. However, a meal purchased at a restaurant is a retail sale. Restaurants are exempt from paying sales tax on the food they purchase for resale. These purchases are exempt in statute as an ingredient of the final product sold to customers at retail. Items purchased by restaurants to aid in the cooking process and impart flavor to food are not defined as an ingredient of the final product sold; therefore, restaurants must pay sales tax on these items.

Summary of Bill: A sales and use tax exemption is provided for products sold to restaurants that impart flavor to food during the cooking process. The product must be completely or

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substantially consumed during the cooking process, which includes items such as wood chips, charcoal, briquettes, and grapevines, or the product must support the food during the cooking process and be entirely comprised of wood, such as grilling planks.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill takes effect on August 1, 2013.

Staff Summary of Public Testimony: PRO: This bill clarifies that items that impart flavor to food during the cooking process are exempt from the sales and use tax. This bill is a great example of how a state agency can and should work with the business industry. Some restaurants have stated that they have never previously paid a tax on items that impart flavor, such as charcoal, during the cooking process. Only during recent audits have restaurants been told that they owe tax on these products. The statutes should be clarified to exempt these products from the retail sales and use tax.

Persons Testifying: PRO: Senator Dammeier, prime sponsor; Denny Eliason, WA Restaurant Assn.